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ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ORIGINAL

Verizon Wireless LLC, d/b/a Verizon Wireless; }
VoiceStream PCS I, LLC, d/b/a T-Mobile; }
VoiceStream GSM I Operating Company, LLC; }
d/b/a T-Mobile; Omnipoint Holdings, Inc. d/b/a }
T-Mobile; Powertel/Kentucky, Inc., d/b/a T- }
Mobile; NPCR, Inc., d/b/a Nextel Partners; }
Nextel Partners Operating Corp.; AT&T Wireless }
PCS, LLC and TeleCorp. Communications, Inc., }
d/b/a AT&T Wireless }

Petitioners }

vs. }

Adams Telephone Co-Operative; Alhambra- }
Grantfork Telephone Company; C-R Telephone }
Company; Cass Telephone Company, Egyptian }
Telephone Cooperative Association, Inc; El Paso }
Telephone Company; Flat Rock Telephone Co- }
Op, Inc.; Grafton Telephone Company; Hamilton }
County Telephone Co-Op; Home Telephone }
Company; Laharpe Telephone Company; }
Marseilles Telephone Company; McDonough }
Telephone Co-Operative, Inc.; McNabb }
Telephone Company; Metamora Telephone }
Company; Mid-Century Telephone Co- }
Operative, Inc.; Odin Telephone Exchange, Inc; }
Shawnee Telephone Company; Yates City }
Telephone Company }

Respondents }

**Petition for Investigation of Wireless }
Termination Tariffs }**

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ILLINOIS
COMMERCE COMMISSION

Docket No. 04-0040

MOTION TO MAKE MORE DEFINITE AND CERTAIN

NOW COMES Alhambra-Grantfork Telephone Company ("Alhambra") by its attorney, Gary L. Smith of Loewenstein, Hagen & Smith, P.C., and hereby moves to require Verizon Wireless LLC, d/b/a Verizon Wireless, Verizon Wireless; VoiceStream PCS I, LLC, d/b/a T-Mobile; VoiceStream GSM I Operating Company, LLC; d/b/a T-Mobile; Omnipoint Holdings, Inc. d/b/a T-Mobile; Powertel/Kentucky, Inc., d/b/a T-

Mobile; NPCR, Inc., d/b/a Nextel Partners; Nextel Partners Operating Corp.; AT&T Wireless PCS, LLC and TeleCorp. Communications, Inc., d/b/a AT&T Wireless ("9 Petitioners") to make their petition more definite and certain, and in support thereof states as follows:

1. The 9 Petitioners allege in their petition that Alhambra's Wireless Termination Tariff is invalid under federal law. In support of this, they cite 47 USC Sec. 251(b)(5) and 47 CFR Sec. 51.701 for the principle that local exchange carriers are required to establish reciprocal compensation arrangements for traffic to and from a CMRS provider that originates and terminates in the same major trading area. However, a closer reading of Section 251 reveals that the duty to negotiate such reciprocal compensation arrangements applies to "local exchange carriers," but the law does not impose the same obligation on wireless carriers. The term "local exchange carriers" is expressly defined to exclude providers of commercial mobile service such as the wireless companies. 47 USC Section 153 (26).

2. Alhambra's Wireless Termination Tariff expressly states that it does not apply in instances involving reciprocal compensation or interconnections agreements under the Federal Telecommunications Act of 1996. (See, Original Sheet 2 Sec. C 5). Therefore, there is no conflict between state and federal law.

3. In order to invoke the argument that there is a duty to negotiate under federal law, the 9 Petitioners must allege that each one of them has requested to negotiate with Alhambra. *State ex rel. Sprint Spectrum L.P. v. Missouri PSC*, 112 S.W^{3d} 20, 26 (MO App. 2003). Alhambra cannot force the 9 Petitioners to negotiate, although under 47 USC Sec. 251(b) and (c) the 9 Petitioners could invoke Alhambra's duty to negotiate. On page 4 of the petition, the 9 Petitioners allege: "With limited exceptions, the CMRS

Providers have not received requests from interconnection negotiations from the respondent ILECs.” This ambiguous allegation fails to identify the wireless carriers or the local exchange carriers involved.

4. On page 21 of the petition, the 9 Petitioners allege:

The ILECs have made little or no attempt to negotiate under the Act prior to filing the Termination Tariffs. . . .

5. These allegations leave it unclear which party made any attempt to negotiate. Alhambra cannot force the 9 Petitioners to negotiate, although under 47 USC Sec. 251(b) and (c), the 9 Petitioners could invoke Alhambra’s duty to negotiate. The 9 Petitioners must replead and make it clear whether there have been any attempts by any party to negotiate under Section 251 and identify the parties involved.

WHEREFORE Alhambra-Grantfork Telephone Company prays that the 9 Petitioners be required to make their petition more definite and certain as set forth above and for such other and further relief as is deemed just.

Respectfully submitted,

ALHAMBRA-GRANTFORK TELEPHONE COMPANY


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CERTIFICATE OF SERVICE

Docket No. 04-0040

The undersigned certifies that a copy of the foregoing instrument was served upon the following persons by electronic mail and by enclosing the same in an envelope addressed to such person(s) at their address as follows with postage fully prepaid, and by depositing said envelope in a U.S. Post Office Mail Box in Springfield, Illinois on this 18th day of February, 2004.

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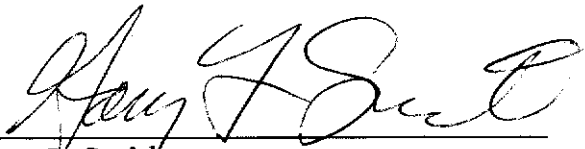
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